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7 Attorneys for Plaintiff Equal Employment Opportunity Commission

8  
9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 **EQUAL EMPLOYMENT OPPORTUNITY** )  
12 **COMMISSION,** )

Civil Action No. C-04-4092 WHA

13 Plaintiff,  
14 and

CONSENT DECREE

15 **RAUL GUTIERREZ,**  
16 Plaintiff-Intervenor

17 v.

18 **INTERSTATE HOTELS, L.L.C., et al.,**  
19 Defendants.

20 Plaintiff Equal Employment Opportunity Commission ("Commission") filed this  
21 action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of  
22 1991 to correct alleged unlawful employment practices, and to provide appropriate  
23 relief to individuals who the Commission alleged were adversely affected by such  
24 practices. The Commission alleged that Defendant Interstate Hotels, L.L.C.  
25 ("Interstate") subjected employees to unlawful harassment based on their national  
26 origin and/or retaliation in violation of Title VII. Defendant Interstate denied all the  
27 Commission's allegations. The Commission and Defendant Interstate now seek to  
28 resolve this action as to each other without further contested litigation through the

1 instant Consent Decree. This resolution does not constitute an admission of liability on  
2 the part of Interstate, nor constitute a finding on the allegations stated in the  
3 Commission's Complaint.

4 The Court has reviewed this Consent Decree in light of the pleadings, the record  
5 herein, and the applicable law, and now approves this Consent Decree.

6 THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

7 **GENERAL PROVISIONS**

8 1. This Court has jurisdiction over the subject matter and the parties to this  
9 action. This Court retains jurisdiction over this Consent Decree during its term.

10 2. This Consent Decree constitutes a full and final resolution of the  
11 Commission's claims against Defendant Interstate in this action.

12 3. This Consent Decree will become effective upon its entry by the Court.

13 4. This Consent Decree is final and binding upon the parties to it, their  
14 successors and assigns.

15 5. The Commission and Interstate will each bear its own costs and attorneys  
16 fees in this action.

17 **GENERAL INJUNCTIVE RELIEF**

18 6. Defendant Interstate and its current officers, agents, employees, and all  
19 persons in active concert or participation with them will comply with all requirements  
20 of Title VII with respect to providing a work environment free from discrimination,  
21 including harassment, on the basis of national origin.

22 7. Defendant Interstate and its current officers, agents, employees, and all  
23 persons in active concert or participation with them agree not to retaliate against Raul  
24 Gutierrez ("Charging Party") Juan Abrego, Rolando Amaya, Sylvana DeLosSantos,  
25 Maria Escobar, Reynaldo Garcia, Ruben Gasca, Rose Gouveia, Reynaldo Largaespada,  
26 Peter Marocco, Sergio Ortiz, Luis Pulido, Florencio Solis, Julio Vargas, and Carlos Vales,  
27 or any other person who testified, was identified as a potential witness or claimant, or  
28 otherwise participated in any manner in the Commission's investigation and the

1 proceedings in this case.

2 **SPECIAL INJUNCTIVE RELIEF**

3 **Non-Discrimination Policies**

4 8. Within sixty (60) days of the entry of this Consent Decree, Defendant  
5 Interstate will redistribute its non-discrimination policy, in both English and Spanish, to  
6 all current employees at its Marriott Fisherman's Wharf facility ("Marriott FW").

7 9. Upon the employment of new employees at Defendant Interstate,  
8 Interstate will distribute its non-discrimination policy to those employees.

9 **Training**

10 10. No later than six (6) months from the entry of this Consent Decree,  
11 Defendant Interstate will use an outside consultant, paid for by Interstate, to train all  
12 employees responsible for supervising or managing employees at Marriott FW, and  
13 former General Manager John Trovato, regarding national origin-based discrimination.  
14 This training will be repeated once a year each year for the duration of this Consent  
15 Decree.

16 11. No later than six (6) months from the entry of this Consent Decree,  
17 Defendant Interstate will use an outside consultant, paid for by Interstate, to train its  
18 human resources staff on how to conduct an investigation into complaints of  
19 discriminatory harassment. This training will be repeated once a year each year for the  
20 duration of this Consent Decree.

21 **Record Keeping and Reports**

22 12. Within thirty (30) days after completing the training described in  
23 paragraphs 10 & 11, Interstate will mail to counsel for the Commission a report  
24 containing the date(s) of training, list(s) of all attendees, and copies of all materials  
25 distributed at the training.

26 13. Once every six (6) months to be measured beginning at the date of entry  
27 of this Consent Decree and continuing for the duration of this Consent Decree,  
28 Interstate will notify the counsel for the Commission whether it has received any

1 complaints of discrimination and/or harassment based on national origin at Marriott  
2 FW, what steps were taken in response to that information, and how the situation was  
3 resolved.

4 14. If the documents referenced in paragraphs 12 & 13 are not timely received  
5 by counsel for the Commission, then the Commission shall give written notice that the  
6 documents have not been received, and shall give Interstate fifteen (15) calendar days to  
7 submit the required documents. The failure of Interstate to provide said documents to  
8 counsel for the Commission shall not be a violation of this Consent Decree unless and  
9 until the passage of the fifteen (15) day period following the written notice from the  
10 Commission to Interstate.

11 **MONETARY RELIEF**

12 15. Interstate will pay the sum of \$320,000.00 in settlement of all claims  
13 asserted in this action. The portion of that amount to be distributed to Plaintiff-  
14 Intervenor Raul Gutierrez will be processed according to the provisions of a separate  
15 agreement and release between Interstate and Gutierrez. The portion of that amount to  
16 be distributed to the similarly situated individuals will be allocated among those  
17 individuals as determined by the Equal Employment Opportunity Commission, as  
18 damages and in complete satisfaction of the Commission's claims against Interstate on  
19 said individuals' behalf as set forth in its Complaint. These sums will be paid by check  
20 directly to each individual in his or her name, provided that the individual has executed  
21 a separate release of claims. The checks will be sent to each individual via certified  
22 mail, at addresses to be provided to Interstate by the Commission. A copy of said  
23 checks and their transmittal letters will be sent to Commission counsel Cindy O'Hara at  
24 the San Francisco District Office. Said checks will be transmitted by Defendant  
25 Interstate no later than thirty (30) days after the entry of this Consent Decree, provided  
26 that Interstate has received the individual's aforementioned executed release.

27 **EXPIRATION OF CONSENT DECREE**

28 16. This Consent Decree constitutes a full and final resolution of all the

1 Commission's claims against Interstate in this action. This Consent Decree will expire  
2 thirty (30) months after its entry by the Court, provided that Interstate has substantially  
3 complied with the terms of this Consent Decree. The Commission agrees to give  
4 Defendant Interstate advance written notice of any alleged failure to comply with the  
5 terms of this Consent Decree and a reasonable opportunity to cure any alleged breach  
6 before seeking court relief for breach of the Consent Decree. Defendant Interstate will  
7 be deemed to have complied substantially if the Court has not made any findings or  
8 orders during the term of the Decree that Defendant Interstate has failed to comply  
9 with any of the terms of this Decree.

10 **E-filing concurrence:** I, Cindy O'Hara, attorney for Plaintiff Commission, attest  
11 that I have obtained the concurrence of Michael Hoffman, attorney for Defendant  
12 Interstate Hotels, L.L.C., for the lodging of this Consent Decree.

13 On Behalf of Plaintiff Commission:

On Behalf of Defendant Interstate:

14 Dated: October 3, 2005

Dated: October 3, 2005

15 EQUAL EMPLOYMENT  
16 OPPORTUNITY COMMISSION

INTERSTATE HOTELS, L.L.C.

17 \_\_\_\_\_/S/  
18 WILLIAM R. TAMAYO  
19 Regional Attorney

\_\_\_\_\_/S/  
GREG SMITH  
Senior Vice President, Human Resources

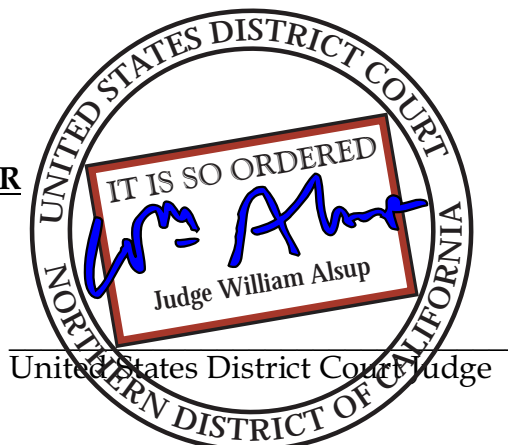
20 \_\_\_\_\_/S/  
21 JONATHAN PECK  
22 Supervisory Trial Attorney

23 \_\_\_\_\_/S/  
24 CINDY O'HARA  
25 Senior Trial Attorney

ORDER

26 It is so ordered.

27 Dated: October 5, 2005  
28 \_\_\_\_\_



United States District Court Judge